

Nebraska Sales and Use Tax

Manufacturing Machinery and Equipment (MME) 2015

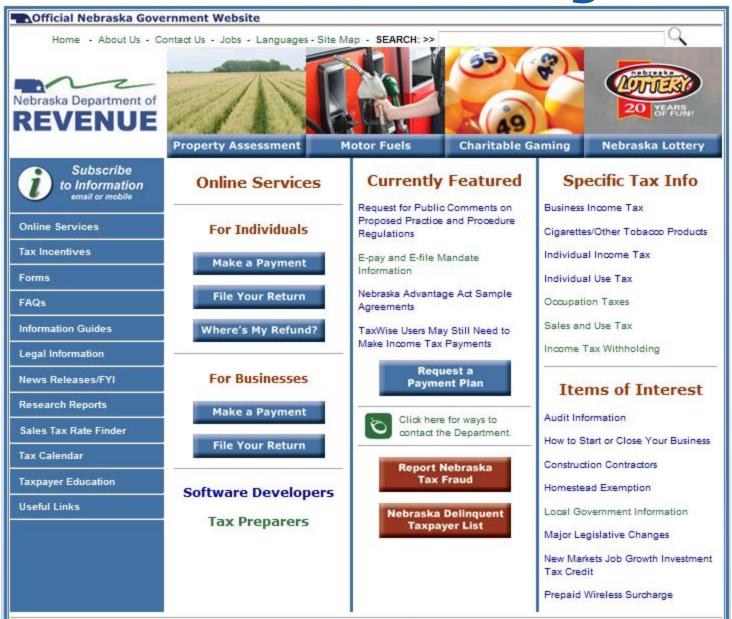
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Overview of Sales and Use Tax

Sales tax is...

- ... a transactional tax,
- ... based on the transaction,
- ... rather than the item sold.

Where the item or service is delivered determines the local sales tax rate and to whom the tax is due.

A sale is...

- ... the transfer of title or possession,
- ... of an item or taxable service,
- ... for consideration.

Overview of Sales Tax

- What is a sales transaction?
 - Sales tax is calculated on the gross receipts.
 - Delivery location determines the rate of local tax.
 - Retailers must collect and report sales tax or document why they didn't.

A lease or rental of tangible personal property...

...can be a sale,

...if there is transfer of possession.

Sales tax is due on each lease or rental payment.

All sellers...

- ...are the consumers of anything they use to sell their items and services; and
- ...must pay tax on them.

Example 1: Cash registers

Example 2: Security services

Taxable Services

- Animal specialty services
- Building cleaning
- Computer software training
- Detective services
- Installing/applying tangible personal property
- Motor vehicle towing, washing/waxing, painting
- Pest control services
- Recreational vehicle (RV) park services
- Security services
- Repair labor (with 5 exceptions see slide 57)

For a more complete list of taxable and nontaxable services, see the Nebraska and Local Sales Tax Information Guide on our website.

All service providers...

...are the consumers of the taxable items and services used to provide the service; and ...must pay tax on those items or services (even if the charge for the service is also taxable).

Example 1: The carwash does not sell soap and wax, but a "car wash."

Example 2: A window cleaner is not selling window cleaning solution, but "clean windows."

The Bottom Line for Sales Tax

Sellers must collect sales tax or document why they did not.

Form 13, Section A

DEVENITE for Sales Tax	xempt Sale Certificate Exemption Verse side/see note below RESET FORM 13						
NAME AND MAILING ADDRESS OF PURCHASER	NAME AND MAILING ADDRESS OF SELLER						
Name	Name						
Street or Other Mailing Address	Street or Other Mailing Address						
City State Zip Code	City State Zip Code						
Check Type of Certificate Single Purchase Blanket If blanket is checked, this certificate is valid until revoked in writing by the purchaser. I hereby certify that the purchase, lease, or rental by the above purchaser is exempt from the Nebraska sales tax for the following reason: Check One Purchase for Resale (Complete Section A) Exempt Purchase (Complete Section B) Contractor (Complete Section C)							
SECTION A — Nebras	ska Resale Certificate						
I hereby certify that the purchase, lease, or rental of from the above seller is exempt from the Nebraska sales tax as a purchase for resale, rental, or lease in the normal course of our business, either in the form or condition in which purchased, or as an ingredient or component part of other property to be resold. I further certify that we are engaged in business as a: Wholesaler Retailer Manufacturer Lessor of Description of Product Sold, Leased, or Rented							
and hold Nebraska Sales Tax Permit Number 01-	If None, State Reason						
or Foreign State Sales Tax Number	State						

Nebraska Exempt Sale Certificate Form 13, Section B

- Specific governmental units
 - Governmental Entities Information guide
 - Reg-1-012C Entity-based exemptions
- Certain exempt organizations
 - Nonprofits Information guide
 - Nonprofits PowerPoint slides
 - Reg-1-090 Nonprofit organizations
 - Reg-1-091 Religious organizations
 - Reg-1-092 Educational institutions

Form 13, Section B

- Qualified manufacturing machinery and equipment (MME)
 - MME Information guide
 - MME PowerPoint slides
 - Reg-1-107 MME Exemption
- Vehicles and parts for vehicles used as a common or contract carrier
 - Common or Contract Carrier Information guide
 - Reg-1-069 Common & Contract Carriers

Form 13, Section B

- Qualified commercial agricultural machinery and equipment (ag exemption)
 - Ag Information guide
 - Agri-business PowerPoint slides
 - Reg-1-094 Ag machinery & equipment refund
- Occasional sales (This exemption is very limited in scope!)
 - Reg-1-022 Occasional sales

Form 13, Section B

Nehracka Department of	Nebraska Resale or Exempt Sale Certificate					FORM	
REVENUE	for Sales Tax Exemption Read instructions on reverse side/see note below RESET FORM						
NAME AN	NAME AND MAILING ADDRESS OF PURCHASER			NAME AND MAILING ADDRESS OF SELLER			
Name			Name				
Street or Other Mailing Address			Street or Other Mailing Address				
City	State Z	Zip Code	City		State	Zip Code	
Check Type of Certificate)						
		is checke	d, this certifi	icate is valid until revol	ked in writing by th	e purchaser.	
	fy that the purchase, lease, or rental by the					-	
-				-		- C	
Check One Pur	chase for Resale (Complete Section A)	_ Exemp	t Purchase (Complete Section B)	Contractor	(Complete Section C)	
SECTION B—Nebraska Exempt Sale Certificate							
The basis for this exemption is exemption category (Insert appropriate category as described on reverse of this form.)							
If exemption c	ategory 2 or 5 is claimed, enter the following	g informat	ion:				
Description of Item(s) Pur	Purchased Intended Use of Item(s) Purchased						
If exemption categories 3 or 4 are claimed, enter the Nebraska Exemption Certificate number. 05-							
If exemption category 6 is claimed, seller must enter the following information and sign this form below:							
Description of Item(s) Solo	d Date of Sel	ller's Origin	al Purchase	Was Tax Paid when Pu	urchased by Seller? NO	Was Item Depreciable?	

Form 13, Section C – For Contractors Only

Nebraska Department of REVENUE	Nebraska	FORM 13				
NAME AN	NAME AND MAILING ADDRESS OF PURCHASER			NAME AND MAILING ADDRESS OF SELLER		
Name			Name			
Street or Other Mailing Address		Street or Other Mailing Address				
City	State	Zip Code	City	State	Zip Code	
Check Type of Certificate	9		•			
Sir	ngle Purchase B	lanket If blanket is checke	d, this certificate is valid until	revoked in writing by the	purchaser.	
I hereby certify that the purchase, lease, or rental by the above purchaser is exempt from the Nebraska sales tax for the following reason:						
Check One Purchase for Resale (Complete Section A) Exempt Purchase (Complete Section B) Contractor (Complete Section C)						
						
SECTION C—For Contractors Only						
1. Purchases of Building Materials or Fixtures:						
As an Option 1 or Option 3 contractor, I hereby certify that purchases of building materials and fixtures from the above seller are exempt from Nebraska sales tax. My Nebraska Sales or Consumer's Use Tax Permit Number is: 01-						
2. Purchases Made Under Purchasing Agent Appointment on behalf of:						
Pursuant to an attached Purchasing Agent Appointment and Delegation of Authority for Sales and Use Tax, Form 17, I hereby certify that purchases of building materials, and fixtures are exempt from Nebraska sales tax.						

There is a seminar just for <u>contractors</u>! Check the schedule to attend a class, request that we set a date to work with you directly, or check out the presentation using the link above!

What is Use Tax?

- Use tax is due when Nebraska sales tax has not been paid on a taxable item or service purchased for use in Nebraska.
- Sales and use tax are not both due on the same transaction.
- The big difference is who remits the tax -
 - Sales tax is collected and remitted by the seller.
 - Use tax is paid directly to the Department by the purchaser/consumer.

Use Tax and Sales Tax Have These Things in Common –

- They are imposed on the same transactions.
- They have the same exemptions.
- They are calculated at the same rate.
 - Where delivery occurs or
 - Where first usage in Nebraska takes place.

When Use Tax is Due

- Use tax is often due when purchases are made from an out-of-state seller
 - Internet, catalog, mail order
 - Magazines and journals by subscription
- Use tax is due when the business withdraws tax-free inventory for business or personal use (including donations)
 - Auto mechanic
 - Hair salon

Containers

There are two types:

- Returnable
 - Taxable to the person who will place contents into them.
- Nonreturnable
 - Nontaxable when the person will fill the container and sell the contents with the container.

Gross Receipts – Delivery Charges

Delivery charges are taxable when:

1. The buyer pays the seller for the delivery charge;

-and-

2. The transaction is taxable.

Delivery charges are taxable regardless of the method of delivery.

Software and Digital Goods & Services

Taxable Examples

Software/software installation

- Tangible medium
- Internet transferred software
- Software training/re-training by the seller
- Maintenance agreements with updates

Digital goods

- Electronic books and book clubs
- Downloading songs & ringtones
- Movies, music videos, & TV shows

Services

 Virus protection software, monitoring services, security services, and testing

Software and Digital Goods & Services

Nontaxable Examples

Software/software installation

- Cloud computing
- Accessing web-based applications (no code necessary)
- Access codes for online subscription services

Digital goods

- Web design without license transfer
- Electronically-transferred photographs

Services

Help desk without updates

Delivery Charges

If you owe use tax on a purchase, you also owe use tax on any delivery charge paid to the seller as part of that purchase.

Overview of Manufacturing

What is "Manufacturing?"

Manufacturing is...
performing any action or series of actions on tangible personal property – by hand or machine – resulting in the property being reduced or transformed into a different:

- state
- quality
- form
- property
- thing.

Manufacturing does not include:

- Document shredding
- Mining
- Bottling
- Sorting
- Retail operations
- Generation or transmission of electricity

- Production or transmission of information or data
- Preparation of food for immediate consumption
- Purification or transportation of water
- Commercial agricultural operations or support of those operations

Manufacturing Machinery & Equipment (MME)

MME is machinery and equipment:

- Used in manufacturing; and
- Purchased by a person or entity engaged in the business of manufacturing.

MME can be purchased sales tax exempt.

Manufacturing Machinery and Equipment (MME) is Exempt:

When the purchaser of qualified equipment is engaged in manufacturing.

 The revenue test for manufacturing activity (See Reg 1-107.02)
 no longer applies per Farmers Cooperative v.
 Nebraska Department of Revenue.

Manufacturing Machinery and Equipment (MME) is Exempt:

- A Form 13 must be issued to the retailer of the MME.
- The percent of usage test for manufacturing equipment (See Reg 1-107.02)
 no longer applies per Kerford Limestone Co. v. Nebraska Department of Revenue.

The Sales and Use Tax Regulations will be updated to reflect the court decisions referenced above.

1. Used to produce, fabricate, assemble, process, finish, refine, or package tangible personal property;

Examples -

- Drill press used to manufacture shelving and cabinets.
- Extrusion mold used to produce rigid styrofoam to ship cabinets.

2. Used to transport, convey, handle, or store the manufactured goods or raw materials;

Examples -

- Forklift used to off load raw materials, or used to move the finished product throughout the facility.
- Shelving used to store raw materials or the finished product.

3. Used to maintain the integrity of the manufactured products, or unique environmental conditions for the products or MME itself;

Examples -

- Humidifier used to maintain paper quality in a paper plant.
- Freezer used by an ice cream manufacturer.

4. Used to test or measure the product, the manufacturing process, or the quality of the finished products;

Example -

 Incubator used to determine bacteria level in manufactured meat product. 5. Computers, software (and related training), and related peripheral equipment used to guide, control, operate, or measure the manufacturing process.

Example -

 Computer hardware and software used to direct robotic assembly line equipment to attach a rivet at a particular point. The MME is not required to actually "touch" or work on the item being manufactured in order to qualify for the exemption;

Examples -

- Boilers used by manufacturers to produce steam essential to the manufacturing process
- Equipment used to make a necessary catalyst
- Molds, dies, and materials necessary to create them for use in manufacturing the finished product or its packaging
- Component parts used to create self-constructed equipment
- Replacement parts
- Repair labor charges
- Installation and maintenance services

Repair of MME

Manufacturers may purchase parts and labor to repair MME sales tax exempt.

Examples -

- Motor for a drill press
- Grease or other lubricants to keep the drill press running
- Repair labor

Warranties and Guarantees

Sales of warranties and guarantees that cover exempt MME are also sales tax exempt.

Taxable Machinery & Equipment

Examples –

- Tools powered by hand
- Security equipment
- Safety equipment
- Repair shop equipment
- Cleaning equipment
- Licensable motor vehicles and trailers
- Equipment used in retail operations
- Office equipment used for research and development
- Office equipment, including computers and software

Other Taxable Items

Items necessary to the production of a product that are not considered MME. Examples –

- Catalyst a catalyst is a chemical that causes or facilitates a reaction without becoming a part of the resulting chemical compound
- Cutting oil used on a drill press to cut holes in the manufactured product

Dual Use of MME

MME that is used both for manufacturing and for other purposes is exempt.

Documenting Exempt Purchases

Manufacturers must give a properly completed Form 13, Section B, Category 5 to their Nebraska vendors.

Nebraska Department of REVENUE	Nebraska R	13							
NAME AND MAILING ADDRESS OF PURCHASER				NAME AND MAILING ADDRESS OF SELLER					
Name			Name						
Street or Other Mailing Address				Street or Other Mailing Address					
City	State	Zip Code	City		State	Zip Code			
Check Type of Certificate Single Purchase Blanket If blanket is checked, this certificate is valid until revoked in writing by the purchaser.									
I hereby certify that the purchase, lease, or rental by the above purchaser is exempt from the Nebraska sales tax for the following reason: Check One Purchase for Resale (Complete Section A) Exempt Purchase (Complete Section B) Contractor (Complete Section C)									
	SECTION	NB—Nebraska	Exempt	Sale Cert	ificate				
The basis for this exemption is exemption category (Insert ap				ppropriate category as described on reverse of this form.)					
If exemption cate	gory 2 or 5 is claimed, enter th	ne following informati	on:						
Description of Item(s) Purchased			Intended Use of Item(s) Purchased						
If exemption cate	egories 3 or 4 are claimed, ente	r the Nebraska Exemp	tion Certific	ate number.	05-				
If exemption cate	egory 6 is claimed, seller must	enter the following inf	formation an	d sign this fo	rm below:				
Description of Item(s) Sold		Date of Seller's Origina	l Purchase	Was Tax Pai	d when Purchased by Seller?	Was Item Depreciable?			

MME 2015

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Contractors

Contractors Database

- Every construction contractor making payment to a <u>subcontractor</u> must withhold 5%;...
- Unless the subcontractor is registered in the <u>Department of Labor's Contractor</u> <u>Registration Database</u>.

- A single definition of "contractor" is used for purposes of the Contractor Registration Act and construction contractor withholding. (This definition is slightly different than the sales and use tax definition of a contractor.)
- A centralized registration system is used for construction contractors.
- The Department of Labor administers the <u>Contractor Database</u>.

Construction Contractor

- Contractors may purchase and annex MME to real property, or repair MME that is annexed.
- The MME and repair parts purchased and annexed by a contractor are taxed according to the contractor option chosen.
- Charges for contractor labor are not taxable.

- Makes repairs or improvements to real estate or items annexed to real estate.
- Arranges for annexation.

Examples you may not have thought about -

- Landscapers who build or repair retaining walls.
- Interior designers who arrange for construction work to be done (hanging wallpaper).
- Providers of restoration services to real estate.

Contractor Labor

- Annexing building materials to real estate.
- Repair of a structure.
- Repair of building materials that are or will be annexed to real estate.
- Charges for contractor labor are not taxable.

Example: Hanging drywall.

Building Materials

- Property (including fixtures) that will be annexed to real estate or to an improvement on real estate (see <u>Reg-1-017-02</u>).
- Does not include:
 - Tools;Supplies; or
 - Equipment;
 Other items not annexed.

Example: Rebar embedded in concrete is a building material. Form lumber is not.

Fixtures

- Equipment that must be annexed to a building or structure so that it can properly function.
- Fixtures remain identifiable as a separate item.

Example: Water heater.

Contractor Options

- Contractor Options apply only to construction contractor projects.
- Option chosen determines:
 - How sales and use tax is paid on building materials and fixtures; or
 - If sales tax is collected from the customer on building materials and fixtures
- Audits will be conducted based on the default option or option chosen. If an option is not chosen, default = Option 1.

- Retail Sales (TPP & Taxable Services)
 - Taxable at rate in effect where delivery occurs.
- Contractor Labor
 - Not taxable.
- Nontaxable Services

Option 1 Contractor

- Transactions with the Supplier
 - Purchases building materials and fixtures for resale.
 - Must give Nebraska supplier a properly completed <u>Form 13</u>, Section C, Block 1.
- Transactions with the Customer
 - Does not collect sales tax on separately stated labor charges.
 - Must collect sales tax on separately stated charges for building materials and fixtures.
 - If charges for building materials and labor are not separately stated, the entire amount is taxable.

Option 2 Contractor

- Transactions with the Supplier
 - Pays sales or use tax on purchases of building materials and fixtures.
- Transactions with the Customer
 - Does not collect sales tax on any portion of the invoice. Cannot accept a Form 13.

Option 3 Contractor

- Transactions with the Supplier
 - Purchases building materials and fixtures tax-free.
 - Must give Nebraska supplier a properly completed <u>Form 13</u>, Section C, Block 1.
- Transactions with the Customer
 - Must remit use tax at the rate in effect at the time and place of withdrawal of building materials and fixtures from inventory.
 - Does not collect sales tax on any portion of the invoice. Cannot accept a Form 13.

Contractor Issues

Option 1 Contractor

- Transactions with the Supplier
 - Can purchase MME or repair parts sales tax exempt for resale.
 - Must give Nebraska supplier a properly completed <u>Form 13</u>, Section C, Block 1.
- Transactions with the Manufacturer
 - Does not collect sales tax on any portion of the invoice.
 - Must obtain a properly completed Form 13, Section B,
 Category 5 from the manufacturer.

Option 2 Contractor

- Transactions with the Supplier
 - Pays sales or use tax on purchases of MME and the repair parts for MME.
- Transactions with the Customer
 - Does not collect sales tax on any portion of the invoice. Cannot accept a Form 13.

Option 3 Contractor

- Transactions with the Supplier
 - Buys MME or repair parts sales tax exempt.
 - Must give Nebraska supplier a properly completed <u>Form 13</u>, Section C, Block 1.
- Transactions with the Customer
 - Must remit use tax at the rate in effect at the time and place of withdrawal of MME or repair parts from inventory.
 - Does not collect sales tax on any portion of the invoice. Cannot accept a Form 13.

Please note: MME does not include items that are an integral part of a building.

Examples -

- Foundation for a specific piece of MME.
- Electrical wiring from the electrical panel to the shutoff box for the MME.

Cleaning annexed equipment is taxable building cleaning when the equipment is real property

If the annexed equipment facilitates the function of the building...

and

is intended to stay with the building...

then

the equipment is considered real property.

Examples:

- Furnace
- Air conditioner
- Water heater

Cleaning annexed equipment is not taxable building cleaning when the equipment is TPP

If the annexed equipment facilitates the function of the business...

and

is not intended to stay with the building...

then

the equipment is considered tangible personal property. The cleaning of the equipment is not taxable.

Examples:

- Commercial ice maker
- Commercial oven

Water & Energy Source Utility Exemption

Water Exemption

- Sales tax is not due when more than 90% of the water billed through a single meter is used for one of the following exempt purposes:
 - Irrigation of agricultural lands
 - Manufacturing
 - Care of animals whose products we eat or wear

Energy Source Utility Exemption

- Sales tax is not due when more than 50% of a qualified energy source is used for an exempt purpose:
 - Generation of electricity
 - Irrigation or farming
 - Processing or manufacturing
 - Refining
 - Use by any hospital
- Use <u>Form 13E</u>, Nebraska Energy Source Exempt Sale Certificate

Form 13E

2
Nebraska Department of
REVENUE

Nebraska Energy Source Exempt Sale Certificate

FORM 13E

				13E		
NAME AND MAILING ADDRESS OF PURCHASER Name			NAME AND MAILING ADDRESS OF SELLER			
		Name				
Street or Other Mailing Address			Street or Other Mailing Address			
State	Zip Code	City	State	Zip Code		
rtificate	If Blanket is checked	, this certificate is vali	d until revoked in writing by the purchase	ər.		
unt Number		Was an energy audir	(analysis) completed prior to issuing th	s certificate to the seller?		
siness operations:						
Our purchase of electricity or compre	essed natural gas i	s exempt from N	Tebraska sales and use tax beca	use more than 50		
percent of the energy charge through meter number(s)						
Manufacturing and Processing	☐ Farmir	ng 🗌	Generation of Electricity			
☐ Irrigation	☐ Refinir	ng				
•				•		
☐ Manufacturing and Processing	☐ Farmir	ng 🗌	Generation of Electricity			
5	rtificate Single Purchase Blanket Int Number Siness operations: Our purchase of electricity or compre percent of the energy charge through m determined to be used or directly cons Manufacturing and Processing Irrigation Our purchase of coal, fuel oil, diesel fi sales and use tax because more than 50	State Zip Code rtificate Single Purchase Blanket If Blanket is checked and Number Siness operations: Our purchase of electricity or compressed natural gas is percent of the energy charge through meter number(s) determined to be used or directly consumed in: (check as Manufacturing and Processing Farming Irrigation Refining Our purchase of coal, fuel oil, diesel fuel, tractor fuel, coales and use tax because more than 50 percent of the amount of the consumer of the same star and use tax because more than 50 percent of the amount of the same star and use tax because more than 50 percent of the amount of the same star and use tax because more than 50 percent of the amount of the same star and use tax because more than 50 percent of the same star and use tax because the same star and use tax because the same star and	State Zip Code City rtificate Single Purchase Blanket If Blanket is checked, this certificate is validant Number Was an energy audit YES Siness operations: Our purchase of electricity or compressed natural gas is exempt from Number percent of the energy charge through meter number(s) determined to be used or directly consumed in: (check appropriate box) Manufacturing and Processing Farming Irrigation Refining Our purchase of coal, fuel oil, diesel fuel, tractor fuel, coke, nuclear fuel, sales and use tax because more than 50 percent of the amount purchased is	State Single Purchase Blanket If Blanket is checked, this certificate is valid until revoked in writing by the purchase unt Number Was an energy audit (analysis) completed prior to issuing the process operations: Our purchase of electricity or compressed natural gas is exempt from Nebraska sales and use tax becapercent of the energy charge through meter number(s) determined to be used or directly consumed in: (check appropriate box) Manufacturing and Processing Farming Generation of Electricity Irrigation Refining Our purchase of coal, fuel oil, diesel fuel, tractor fuel, coke, nuclear fuel, butane, propane, or gas is exemsales and use tax because more than 50 percent of the amount purchased is used or directly consumed in: (check propagation) Cons		

Summary of Purchases by Manufacturers

Recognize what is taxable and know how to document what is not taxable:

- MME Equipment Exemption
- Other Equipment
- Component/Ingredient
- Supply Items
- Energy Source Exemption
- Water Exemption

Form 13, Section B

Taxable

Form 13, Section A

Taxable

<u>Form 13E</u>

Form 13, Section B

For more information on MME, refer to:

Sales and Use Tax Regulations <u>1-</u> <u>12.02D(33)</u>,1-107;

at <u>revenue.nebraska.gov</u>.

Nonresident Individuals Performing Personal Services in Nebraska

- Business Background
 - Any business that gets audited is reviewed to be sure the entity has correctly withheld income tax on payments made to nonresident individuals and certain other entities that were hired to perform personal services in Nebraska.
 - A specific <u>information guide</u> has been created.

Definitions

- Nonresident Individual. A person who is not a resident of Nebraska at the time the personal service is performed.
- Nonresident Entity. Includes corporations, partnerships, and LLCs not domiciled in Nebraska, and that do not maintain a permanent place of business in Nebraska.
- Personal Services. Include services provided by persons not considered employees under the IRC.

Payments to Nonresident Individuals

- Payments are subject to withholding when:
 - The payor maintains an office or transacts business in Nebraska and the payments exceed \$600; or
 - The payor does not have an office in Nebraska and the payments exceed \$5,000.

Payments to Nonresident Entities

- Payments are subject to withholding when:
 - The payor maintains an office or transacts business in Nebraska and the payments exceed \$600;
 or
 - The payer does not have an office in Nebraska and the payments exceed \$5,000;

Payment Requirements

...and when:

 80% or more of the voting stock is owned by shareholders who perform the personal services;

or

 80% or more of the ownership or profits interest of a partnership or LLC is held by partners or members who perform the personal services.

For these businesses, withholding is required for services performed by any shareholders, partners, or members. It doesn't matter how many are physically in Nebraska.



Margaret Akin (308)633-2234 margaret.akin@nebraska.gov

Steve Drzaic (402)595-2078 steve.drzaic@nebraska.gov

Taxpayer assistance 800-742-7474 revenue.nebraska.gov

Thank you!